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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,718	11/21/2001	Eric Feltin	1487.0310000	9575
26111	7590	08/08/2006	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			PWU, JEFFREY C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,718

Applicant(s)

FELTIN ET AL.

Examiner

Jeffrey C. Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-82 is/are pending in the application.
4a) Of the above claim(s) 65-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 37-48 and 50-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/05 has been entered.

Election/Restrictions

2. Claims 65-82 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims or inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/3/06.

Title

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Drawings

4. The drawings are objected to because drawing figures are labeled incorrectly. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include

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all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 38 recites the limitation "the subject" in claim 37. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 57 recites the limitation "the same request" in claim 52. There is insufficient antecedent basis for this limitation in the claim.

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8. Claim 58 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 58 is vague and indefinite because it is unclear what functionality is being incorporated and related to?

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 37-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Mackay et al. (U.S. 2003/0018566).

Mackay et al. teach claims:

37. A method of operating a computing device as a first peer (seller/buyer) in a peer-to-peer network wherein said first peer is adapted to perform a co-operative role (seller/buyer agent) in relation to a second peer (seller/buyer) in the peer-to-peer network (¶[0006] “a distributed online auction system that accurately matches buyers and sellers using a peer to peer architecture enabling not only automated but also ‘live’ Internet auctions.”), comprising:

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- a) establishing contact between the first peer and the second peer which is to be the subject of the co-operative role; (§[0007])
- b) providing said co-operation. (§[0008])

38. A method of operating a peer-to-peer network (fig.7) with a first peer and a second peer, wherein the first peer is a super-peer (server), which is adapted to perform a co-operative role, comprising:

- a) the super-peer receiving notification that the co-operative role is requested; (“§ [0026] The terminals of Client A and Client B have been enhanced in accordance with the invention, preferably by executing a suitable installation program on the respective client terminals. If desired, that program can be downloaded from a server 10. Specifically, each user has a client application that runs on their terminal in the background and that enables the user to create buyer and/or seller agents dedicated to the task of buying or selling such items as the user may specify, or of locating buyers and sellers for such items. The creation and use of these agents will be described in detail below with reference to FIGS. 2 to 7.”)
- b) the super-peer establishing contact with the second peer which is to be the subject of the co-operative role; (§ [0026]) and
- c) providing co-operation between the first and second peers. (§ [0026])

39. The method according to claim 38, wherein the peer-to-peer network further comprises a third peer, wherein the third peer is a second super peer, and any of steps a) to c) are assigned to, and performed by, the third peer. (§ [0055] “Each of the network computers on the proxy list

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may in turn be connected to other network computers 47A, 47B and 47C to which they can forward the request, thus forming the peer to peer daisy-chain or tree structure shown in simplified form in FIG. 8. In this scenario, each network computer 45, 46 is connected to a few other network computers 46, 47, say three as shown, which are in turn connected to a few other network computers and so on. When searching for matches the request is forwarded to the network computers 46A, 46B and 46C to which the user's network computer 45 is connected. If no match is found on those network computers 46A, 46B and 46C defining the first level of the structure, then the request is forwarded to the second-level network computers 47A, 47B and 47C connected to the first-level computers 46A, 46B and 46C. This cascading process continues until a match is found, until a predetermined number of network computers or levels of the structure have been searched, or until a timeout brings the search to a close after a predetermined period of time.”)

40. The method according to claim 38, wherein the co-operative role is a holding role to hold data for the benefit of the second peer, where the holding role includes the steps of the super-peer: d) receiving data; e) recording the received data; f) receiving requests for the received data from users of the network or a process running on the network; g) retrieving the received data based on the request; and h) transmitting the received data to the requesting user or process. (¶ [0055])

41. The method according to claim 40, further comprising the steps of the super-peer: receiving further data; wherein step (d) includes the step of the super-peer: (dl) processing the received data based on the further data. (¶ [0055])

42. The method according to claim 40, further comprising the step of the super-peer:

i) receiving further data with the received data; j) wherein step (d) includes the step of:
(dl) the super-peer processing the received data based on the further data. (§ [0055])

43. The method according to claim 42, wherein the peer-to-peer network contains a third peer and step (d) includes the step of: (dl) performing operations which result in one or more transmissions to the third peer. (§ [0055])

44. The method according to claim 42, wherein the peer-to-peer network contains a third peer and step (f) includes the step of: (fl) performing operations which result in one or more transmissions to the third peer. (§ [0055])

45. The method according to claim 40, wherein step (d) includes the step of:
(dl) performing operations which affect the received data, or which affect other data previously recorded or which result in one or more transmissions to the second peer. (§ [0054]-[0056])

46. The method according to claim 40, wherein step (f) includes the step of: (fl) performing operations which affect the request, or which affect data previously recorded or which result in one or more transmissions to the second peer. (§ [0054]-[0058])

47. The method according to claim 40 wherein the co-operative role corresponds to the super-peer being a witness to a transaction. (§ [0034] “The server 10 reports the login result to the

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client and, if login was successful, sends to the user the offer criteria of any previous buyer and seller agents created by that user (step 2)”)

48. The method according to claim 40 wherein the stored data corresponds to links to other peers. (fig.8)

50. The method according to claim 38, wherein the co-operative role is an assignment role to assign one or more operations to the second peer, where the assignment role includes the steps of: d) the super-peer deciding that the second peer is required to perform an operation; e) selecting the second peer from a list of peers that are available; f) retrieving details of the second peer; and g) instructing the second peer to perform the operation. (¶ [0054]-[0058])

51. The method according to claim 50, including the further steps of h) assessing the peers in the list of available peers; and i) recording the results of the assessing step. (¶ [0054]-[0060])

52. The method according to claim 38, wherein the co-operative role is a sharing role to share performance of an operation with the second peer, the sharing role including the steps of d) the super-peer receiving notification that a peering relationship is required, a peering relationship being a method of operating with the second peer so as to share the performance of an operation; e) determining an identity of a sibling required to implement the peering relationship, the sibling being the second peer; f) establishing a peering relationship with the sibling; g) maintaining synchronization between a database on the super-peer and a database on the sibling. (¶ [0054]-[0061])

53. The method according to claim 52, wherein the peer-to-peer network comprises a third peer, the sharing role including the step of: h) replacing the sibling with a second sibling as required, the second sibling being the third peer. (¶ [0054]-[0061])

54. The method according to claim 52, wherein the peer-to-peer network comprises a third peer, the sharing role including the step of: h) creating a third sibling as required, the third sibling being the third peer. (¶ [0054]-[0061])

55. The method according to claim 52, wherein step (g) includes the steps of:
(g1) handling a request related to the operation if it does not affect a state of the operation; and
(g2) transmitting the request to the sibling, if the super-peer is unable to handle the request. (¶ [0054]-[0061])

56. The method according to claim 52, wherein step (g) includes the steps of :
(g1) handling a request related to the operation if it does affect a state of the operation; and
(g2) transmitting the request to the sibling. (¶ [0054]-[0061])

57. The method according to claim 52, wherein step (f) includes the steps of:
(g1) confirming that the super-peer and the sibling have received the same request, before handling a request related to the operation; and (g2) handling the request independently upon confirmation. (¶ [0054]-[0061])

58. The method according to claim 52, wherein:

one of the super-peer and the sibling incorporate functionality related to receiving data; and one of the super-peer and the sibling not receiving data incorporate functionality related to processing or recording the data. (§ [0054]-[0061])

59. The method according to claim 52 wherein the co-operative role corresponds to the super-peer performing joint or jury-peering in relation to a transaction. (fig.8; joint peering relationship)

60. The method according to claim 38, wherein the co-operative role is an interfacing role to provide users not able to access the network with an interface to the network, where the interfacing role includes the steps of d) the super-peer receiving data from a user who is unable to access the network, wherein the data is received independently of the network; e) executing the data; f) obtaining results of the execution; and g) transmitting the results to the user, wherein the results are transmitted independently of the network. (§ [0054]-[0059])

61. The method according to claim 60 wherein the first and second peers perform cooperative peering thereby allowing a jury function to be performed by the first and second peer in relation to a transaction. (§ [0054]-[0059])

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62. The method according to any of claims 47, 59, or 61, wherein the transaction corresponds to a sale, swap, auction, bid, exchange, distribution of information or other transaction which is amenable to supervision, authorization, validation or distribution. (§ [0003])

63. The method according to claim 38, including the further steps of: d) the super-peer interfacing with a user not located on the network; e) the super-peer reformatting data for the user to view. (FIG.6)

64. A method of operating a computing device as a first peer in a peer-to-peer network, wherein the peer-to-peer network comprises a second and third peer, the first peer being adapted to dynamically support an interaction between the second and third peers who are otherwise communicating with each other directly, the method including the steps Of:

a) the first peer establishing contact with the second and third peers which are to be supported; and b) providing said support. (claim 64 is similarly rejected as in claim 1)

Allowable Subject Matter


11. Claim 49 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 37-64 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


8/3/06
JEFFREY PWU
PRIMARY EXAMINER